

November 7, 2005

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L04P0016**  
Proposed Ordinance No. **2005-0391**

**CRYSTAL HAVEN II**  
Preliminary Plat Application

Location: North side of South 376<sup>th</sup> Street west of Military Road South

Applicant: **Crystal Haven II, LLC**  
1402 Auburn Way North #281  
Auburn, Washington 98002  
Telephone: (206) 919-5744

King County: Department of Development and Environmental Services,  
*represented by* **Trishah Bull**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055  
Telephone: (206) 296-6758  
Facsimile: (206) 296-6613

**SUMMARY OF DECISION/RECOMMENDATIONS:**

|  |                                 |
|--|---------------------------------|
| Department's Preliminary Recommendation: | Approve with conditions         |
| Department's Final Recommendation:       | Approve with revised conditions |
| Examiner's Decision:                     | Approve with revised conditions |

**EXAMINER PROCEEDINGS:**

|                 |                  |
|-----------------|------------------|
| Hearing Opened: | October 25, 2005 |
| Hearing Closed: | October 25, 2005 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**1. General Information:**

Owner/Developer: Crystal Haven II, LLC  
1402 Auburn Way North #281  
Auburn, WA 98002  
(206) 919-5744

Engineer: DMP, Inc.  
726 Auburn Way North  
Auburn, WA 98002  
(253) 333-2200

STR: NW-34-21-04

Location: The property is located on the north side of South 376<sup>th</sup> Street approximately 130 feet west of the South 376<sup>th</sup> Street/Military Road South intersection.

Zoning: R-6  
Acreage: 4.87  
Number of Lots: 25  
Density: 5.13 units per acre  
Lot Size: Ranges from approximately 4,500 to 30,000 square feet  
Proposed Use: Single-family detached dwellings  
Sewage Disposal: Lakehaven Utility District  
Water Supply: Lakehaven Utility District  
Fire District: King County District #39  
School District: Fife School District 417  
Application Completeness Date: November 2, 2004

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
3. The subject property lies east of Federal Way and northeast of Milton, in the Jovita area just north of the county line. It is a slightly skewed rectangle in shape and 4.87 acres in area, lying on the north side of South 376<sup>th</sup> Street west of Military Road South. The developed *Crystal Haven* single family residential subdivision abuts to the south. The site terrain is gently rolling; moderate short banks descend offsite on the west and east edges, and the central portion of the site forms a shallow depression. A previously identified Class 3 stream, a tributary to Hylebos Creek, runs southerly through the center of the site, enclosed by a culvert. No regulated sensitive/critical areas lie within or in close proximity to the site. Vegetation is primarily pasture grass with scattered mixed species trees and brush. A single family residence is developed in the northeastern portion of the property; the remainder is undeveloped. The surrounding area is developed with detached single family residences on a variety of lot sizes, in an area undergoing more dense suburbanization.

4. The Applicant proposes a subdivision of the property into 25 lots for detached single family residential development. The lot sizes would be in the range of approximately 4,500 to 5,500 square feet, except for Lot 25 which would be approximately 30,000 square feet and would accommodate the existing residence. Access to the lots would be provided by the extension of a public road (32<sup>nd</sup> Place South) northerly into the site from the existing intersection of 32<sup>nd</sup> Place South and South 376<sup>th</sup> Street within *Crystal Haven*. From its run north into the site, 32<sup>nd</sup> Place South would curve east to become South 375<sup>th</sup> Place and terminate in a cul-de-sac in the central portion of the site. Lots 5, 6, 12, 13 and 25 would be served by joint use driveways extending from the main interior road.
5. The aforementioned culverted watercourse would be mostly daylighted, *i.e.*, converted into an open stream channel rather than the existing closed culverting, and protected within 50 foot wide open space tracts (Tracts B and E), forming an average of a 25-foot wide buffer on each side. The open space tracts would also be developed with recreation amenities for the subdivision. (The stream would not be a regulated sensitive area subject to sensitive area buffering and supplementary building setbacks.) A drainage detention tract would be located in the southeast portion of the site.
6. A drainage adjustment has been granted to combine the drainage sub-basins on the site so that there is a single drainage outlet from the property via the aforementioned detention tract. Some downstream flooding and erosion problems exist in the Hylebos Creek tributary basin into which the development will discharge, but the development drainage impacts will be mitigated by the implementation of required Level II Flow Control specifications of the 1998 Surface Water Design Manual.
7. Resident public schoolchildren will be bused to their respective schools from one or both of two nearby school bus stops, at the plat entry on 32<sup>nd</sup> Place South and at the nearby intersection of South 376<sup>th</sup> Street and Military Road South. Safe walking conditions are in place offsite and will be provided within the subdivision for school pedestrian safety.

#### CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6 zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on July 5, 2005, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

## DECISION:

The preliminary plat of the *Crystal Haven II* subdivision, as revised and received July 5, 2005, is approved subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards and specifications of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

7. The stormwater detention facility shall be designed at a minimum to the Level 2 Flow Control and Basic Water Quality requirements in the 1998 King County Surface Water Design Manual (KCSWDM).
8. A surface water adjustment (L05V0060) is approved for this subdivision. All conditions of approval for this adjustment shall be met prior to engineering plan approval.
9. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
  - a. The internal access road, 32<sup>nd</sup> Place S and S 375<sup>th</sup> Place, shall be improved to the urban subaccess street standard.
  - b. Tracts A and C shall be improved to the joint use driveway standard per Section 3.01 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be included in the final plat and the engineering plans.
  - c. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
14. Preliminary plat review has identified the following specific requirements which apply to this project.

**Streams**

- a. A Class 3 stream crosses the site in an 18 inch pipe. As part of the plat review it was agreed that the portions of the pipe would be removed and the open stream channel would be re-established. The re-established stream channel will be placed within open

space tracts for protection. Crossing of the stream with proposed road South 375<sup>th</sup> Place and utility easements within the outer portion of the 25-foot buffer as shown on the revised sheets dated July 5, 2005 are permitted.

- b. A channel re-establishment and planting plan will be required during engineering review.
  - c. The open space tracts along the stream channel shall be fenced from abutting lots. The fence design shall be subject to DDES approval so that it does not impede wildlife movement.
  - d. The applicant may be required to obtain a Hydraulic Project Approval (HPA) for work within the stream channel. During engineering review King County staff will coordinate with the State Department of Fish and Wildlife to determine if an HPA is required.
  - e. Trails may be permitted within the outer portions of the stream buffer. Any proposed trails would be reviewed during engineering review.
15. A note shall be shown on the final engineering plan and recorded plat which establishes appropriate restrictions for the proposed open space Tracts B and E. Rather than the “RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS” which had been proposed as Condition 16 in the DDES report, the restrictions shall be pertinent to the daylighted stream/recreation area proposed within the open space tracts. The note language shall have been reviewed and approved by DDES.
16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children’s play equipment, picnic table[s], benches, etc.).
- a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan.
  - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
18. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.

- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at 684-1622 to determine if South 376<sup>th</sup> Street is on a bus route. If South 376<sup>th</sup> Street is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
- i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

ORDERED this 7th day of November, 2005.

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Peter T. Donahue, Deputy  
King County Hearing Examiner

TRANSMITTED this 7th day of November, 2005, to the following parties and interested persons of record:

Brian Aiken  
Fife FD #417  
5802 - 20th St. E.  
Tacoma WA 98425

Rob Chamberlin  
37611 - 32nd Pl. S.  
Auburn WA 98001

Crystal Haven LLC  
1402 Auburn Way N., Ste. 281  
Auburn WA 98002

Michael & Amy Hill  
37613 - 33rd Ave. S.  
Auburn WA 98001

Hans Korve  
DMP Incorporated  
726 Auburn Way N  
Auburn WA 98002

Pete Lombardo  
3603 S. 378th St.  
Auburn WA 98001-8745

Seattle KC Health Dept.  
E. Dist. Environ. Health  
14350 SE Eastgate Way  
Bellevue WA 98007

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37517 - 34th Avenue S  
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Bruce Whittaker  
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MS OAK-DE-0100

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 21, 2005***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 28, 2005***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

#### MINUTES OF THE OCTOBER 25, 2005, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0016.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Nick Gillen representing the Department; and Hans Korve representing the Applicant.



The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L04P0016
- Exhibit No. 2 DDES Preliminary report to the Hearing Examiner, dated October 25, 2005
- Exhibit No. 3 Application for Land Use Permits received September 15, 2004
- Exhibit No. 4 SEPA Environmental checklist received September 15, 2004
- Exhibit No. 5 SEPA Determination of Non-significance issued September 19, 2005
- Exhibit No. 6 Affidavit of Posting indicating a December 16, 2004, posting date; received by DDES on December 22, 2004
- Exhibit No. 7 Preliminary plat map received July 5, 2005 (revised)
- Exhibit No. 8 Assessor's maps (2): SE 33-21-04 and SW 34-21-04
- Exhibit No. 9 Kroll page 753W
- Exhibit No. 10 Level I Off-site Analysis by DMP, received July 5, 2005 (revised)
- Exhibit No. 11 Approved KCSWDM adjustment no. L05V0060
- Exhibit No. 12 Conceptual Landscape Plan received September 27, 2005
- Exhibit No. 13 Letter from B-12 Wetland Consulting, Inc., dated March 27, 2005 re: clarification of stream channel findings
- Exhibit No. 14 Letter from DMP, Inc., and documentation regarding piping across the proposed preliminary plat, received March 17, 2005

PTD:gao  
L04P0016 RPT